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DEPARTMENT OF COMMERCE

International Trade Administration

[A-570-026; C-570-027]

Certain Corrosion-Resistant Steel Products from the People's Republic of China:

Affirmative Preliminary Determination of Circumvention Involving Malaysia

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce.

SUMMARY: The Department of Commerce (Commerce) preliminarily determines that imports of certain corrosion-resistant steel products (CORE), completed in Malaysia using hot-rolled steel (HRS) and/or cold-rolled steel (CRS) flat products manufactured in the People's Republic of China (China), are circumventing the antidumping duty (AD) and countervailing duty (CVD) orders on CORE from China.

DATES: Applicable [INSERT DATE OF PUBLICATION IN THE *FEDERAL REGISTER*].

FOR FURTHER INFORMATION CONTACT: Shanah Lee, AD/CVD Operations, Office III, Enforcement and Compliance, International Trade Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482-6386.

SUPPLEMENTARY INFORMATION:

Background

On August 12, 2019, Commerce self-initiated country-wide anti-circumvention inquiries of the *China CORE Orders*¹ covering Chinese-origin HRS and/or CRS exported to various countries, including Malaysia, for completion into CORE and subsequently exported to the United States.² In the *Initiation Notice*, Commerce initiated the instant anti-circumvention inquiries based on available information and an analysis pursuant to section 781(b) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.225(h), to determine whether the importation of the Chinese-origin HRS or CRS substrate for completion into CORE in Malaysia and subsequent exportation of that CORE to the United States constitutes circumvention of the *China CORE Orders*.

For a complete description of the record developed since the initiation of these inquiries, see the Preliminary Decision Memorandum.³ A list of topics included in the Preliminary Decision Memorandum is included as Appendix I to this notice. The Preliminary Decision Memorandum is a public document and is on file electronically via Enforcement and Compliance's Antidumping and Countervailing Duty Centralized Electronic Service System (ACCESS). ACCESS is available to registered users at <https://access.trade.gov>, and to all parties in the Central Records Unit, room B8024 of the main Commerce building. In addition, a complete version of the Preliminary Decision Memorandum can be accessed directly at

¹ See *Certain Corrosion-Resistant Steel Flat Products from India, Italy, the People's Republic of China, the Republic of Korea, and Taiwan: Amended Final Affirmative Antidumping Duty Determination for India and Taiwan, and Antidumping Duty Orders*, 81 FR 48390 (July 25, 2016); see also *Certain Corrosion-Resistant Steel Products from India, Italy, Republic of Korea, and the People's Republic of China: Countervailing Duty Order*, 81 FR 48387 (July 25, 2016) (collectively, *China CORE Orders*).

² The notice of initiation subsequently published in the *Federal Register* on August 21, 2019. See *Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders*, 84 FR 43585 (August 21, 2019) (*Initiation Notice*) and accompanying Memorandum, "Certain Corrosion-Resistant Steel Products from the People's Republic of China: Initiation of Anti-Circumvention Inquiries on the Antidumping Duty and Countervailing Duty Orders," dated August 12, 2019.

³ See Memorandum, "Decision Memorandum for the Preliminary Determination in the Anti-Circumvention Inquiry of Certain Corrosion-Resistant Steel Products from the People's Republic of China," dated concurrently with, and hereby adopted by, this notice (Preliminary Decision Memorandum).

<http://enforcement.trade.gov/frn/>. The signed and the electronic versions of the Preliminary Decision Memorandum are identical in content.

Scope of the *Orders*

The products covered by these orders are certain flat-rolled steel products, either clad, plated, or coated with corrosion-resistant metals such as zinc, aluminum, or zinc-, aluminum-, nickel- or iron-based alloys, whether or not corrugated or painted, varnished, laminated, or coated with plastics or other non-metallic substances in addition to the metallic coating. For a complete description of the scope of the orders, *see* the Preliminary Decision Memorandum.

Scope of the Anti-Circumvention Inquiries

These anti-circumvention inquiries cover CORE completed in Malaysia from HRS or CRS substrate input manufactured in China and subsequently exported from Malaysia to the United States (merchandise subject to these inquiries).

Methodology

Commerce is conducting these anti-circumvention inquiries in accordance with section 781(b) of the Act. Because certain interested parties did not cooperate to the best of their abilities in responding to Commerce's requests for information, we have based parts of our preliminary determination on the facts available, with adverse inferences, pursuant to sections 776(a) and (b) of the Act. For a full description of the methodology underlying Commerce's preliminary determination, *see* the Preliminary Decision Memorandum.

Preliminary Finding

As detailed in the Preliminary Decision Memorandum, we preliminarily determine that CORE completed in Malaysia from HRS and/or CRS substrate sourced from China is circumventing the *China CORE Orders*. We therefore preliminarily determine that it is

appropriate to include this merchandise within the *China CORE Orders* and to instruct U.S. Customs and Border Protection (CBP) to suspend liquidation of any entries of CORE from Malaysia produced from HRS and/or CRS from China.

Suspension of Liquidation

As stated above, Commerce has made a preliminary affirmative determination that imports of CORE completed in Malaysia, using HRS and/or CRS flat products manufactured in China, are circumventing the *China CORE Orders*. In accordance with 19 CFR 351.225(1)(2), Commerce will direct CBP to suspend liquidation and to require a cash deposit of estimated duties on unliquidated entries of CORE produced in Malaysia, as appropriate, that were entered, or withdrawn from warehouse, for consumption on or after August 12, 2019, the date of initiation of the anti-circumvention inquiries. The suspension of liquidation instructions will remain in effect until further notice.

CORE produced in Malaysia from HRS and/or CRS that is not of Chinese origin is not subject to these inquiries. However, imports of such merchandise are subject to certification requirements, and cash deposits may be required if the certification requirements are not satisfied. Additionally, CORE completed in Malaysia from HRS and/or CRS from Taiwan also has preliminarily been found to be circumventing the AD order on CORE from Taiwan and such merchandise is subject to similar certification requirements.⁴ Accordingly, if an importer imports CORE from Malaysia and claims that the CORE was not produced from HRS and/or CRS substrate manufactured in China, the importer and exporter are required to meet the certification and documentation requirements described in Appendices II, III and IV, in order for cash deposits pursuant to the *China CORE Orders* not to be required.

⁴ See *Federal Register* notice, “*Certain Corrosion-Resistant Steel Products from Taiwan: Affirmative Preliminary Determination of Anti-Circumvention Inquiry on the Antidumping Duty Order*,” dated concurrently with this notice.

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China and Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend liquidation of the entry and collect cash deposits at the rates applicable to the *China CORE Orders* (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for all-other Chinese producers/exporters (39.05 percent)).⁵ This is to prevent evasion, given that the rates applicable to the AD/CVD orders on CORE from China⁶ are higher than the AD rate established for CORE from Taiwan. In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate applicable to the AD order on CORE from Taiwan (*i.e.*, 3.66 percent).

Commerce preliminarily determines that the following companies are not eligible for the certification process: FIW Steel Sdn Bhd; Hsin Kuang Steel Co Ltd; Nippon EGalv Steel Sdn Bhd; NS BlueScope Malaysia Sdn Bhd; and YKGI/Yun Kong Galv. Ind/Starshine Holdings Sdn Bhd./ASTEEL Sdn Bhd. Additionally, exporters are not eligible to certify shipments of merchandise produced by the above-listed companies. Further, importers of CORE from Malaysia that is produced and/or exported by these ineligible companies are similarly ineligible for the certification process with regard to those imports.

Verification

As provided in 19 CFR 351.307, Commerce intends to verify information relied upon in making its final determination.

⁵ See *China CORE Orders*.

⁶ *Id.*

Public Comment

Case briefs or other written comments may be submitted to the Assistant Secretary for Enforcement and Compliance no later than seven days after the date on which the last final verification report is issued in these anti-circumvention inquiries, unless the Secretary alters the time limit. Rebuttal briefs, limited to issues raised in case briefs, may be submitted no later than five days after the deadline date for case briefs.⁷ Pursuant to 19 CFR 351.309(c)(2) and (d)(2), parties who submit case briefs or rebuttal briefs in these anti-circumvention inquiries are encouraged to submit with each argument: (1) a statement of the issue; (2) a brief summary of the argument; and (3) a table of authorities.

Pursuant to 19 CFR 351.310(c), interested parties who wish to request a hearing, limited to issues raised in the case and rebuttal briefs, must submit a written request to the Assistant Secretary for Enforcement and Compliance, U.S. Department of Commerce, within 30 days after the date of publication of this notice. Requests should contain the party's name, address, and telephone number, the number of participants, whether any participant is a foreign national, and a list of the issues to be discussed. If a request for a hearing is made, Commerce intends to hold the hearing at the U.S. Department of Commerce, 1401 Constitution Avenue NW, Washington DC 20230, at a time and date to be determined. Parties should confirm by telephone the date, time, and location of the hearing two days before the scheduled date.

International Trade Commission Notification

Commerce, consistent with section 781(e) of the Act, has notified the U.S. International Trade Commission (ITC) of this preliminary determination to include the merchandise subject to these anticircumvention inquiries within the *China CORE Orders*. Pursuant to section 781(e) of

⁷ See 19 CFR 351.309; see also 19 CFR 351.303 (for general filing requirements).

the Act, the ITC may request consultations concerning Commerce's proposed inclusion of the merchandise subject to these inquiries. If, after consultations, the ITC believes that a significant injury issue is presented by the proposed inclusion, it will have 60 days from the date of notification by Commerce to provide written advice.

Notification to Interested Parties

This determination is issued and published in accordance with section 781(b) of the Act and 19 CFR 351.225(f).

Dated: February 7, 2020.

Jeffrey I. Kessler,

Assistant Secretary

for Enforcement and Compliance.

Appendix I

List of Topics Discussed in the Preliminary Decision Memorandum

- I. Summary
- II. Background
- III. Scope of the Orders
- IV. Scope of the Anti-Circumvention Inquiries
- V. Period of Inquiries
- VI. Statutory Framework
- VII. Use of Facts Available with an Adverse Inference
- VIII. Anti-Circumvention Determination
- IX. Country-Wide Determination
- X. Certification for Not Using Chinese-Origin HRS and/or CRS
- XI. Verification
- XII. Recommendation

Appendix II

Certification Requirements

If an importer imports certain corrosion-resistant steel products (CORE) from Malaysia and claims that the CORE was not produced from hot-rolled steel and/or cold-rolled steel substrate (substrate) manufactured in the People's Republic of China (China), the importer is required to complete and maintain the importer certification attached hereto as Appendix III and all supporting documentation. Where the importer uses a broker to facilitate the entry process, it should obtain the entry number from the broker. Agents of the importer, such as brokers, however, are not permitted to make this certification on behalf of the importer.

The exporter is required to complete and maintain the exporter certification, attached as Appendix III, and is further required to provide the importer a copy of that certification and all supporting documentation.

For shipments and/or entries on or after August 12, 2019 through March 7, 2020, for which certifications are required, importers and exporters should complete the required certification within 30 days of the publication of this notice in the *Federal Register*. Accordingly, where appropriate, the relevant bullet in the certification should be edited to reflect that the certification was completed within the time frame specified above. For example, the bullet in the importer certification that reads: "This certification was completed at or prior to the time of Entry," could be edited as follows: "The imports referenced herein entered before March 8, 2020. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention." Similarly, the bullet in the exporter certification that reads, "This certification was completed at or prior to the time of shipment," could be edited as follows: "The shipments/products referenced herein

shipped before March 8, 2020. This certification was completed on mm/dd/yyyy, within 30 days of the *Federal Register* notice publication of the preliminary determination of circumvention. For such entries/shipments, importers and exporters each have the option to complete a blanket certification covering multiple entries/shipments, individual certifications for each entry/shipment, or a combination thereof.

For shipments and/or entries on or after March 8, 2020, for which certifications are required, importers should complete the required certification at or prior to the date of Entry and exporters should complete the required certification and provide it to the importer at or prior to the date of shipment.

The importer and Malaysian exporter are also required to maintain sufficient documentation supporting their certifications. The importer will not be required to submit the certifications or supporting documentation to U.S. Customs and Border Protection (CBP) as part of the entry process at this time. However, the importer and the exporter will be required to present the certifications and supporting documentation, to Commerce and/or CBP, as applicable, upon request by the respective agency. Additionally, the claims made in the certifications and any supporting documentation are subject to verification by Commerce and/or CBP. The importer and exporter are required to maintain the certifications (the importer must retain both certifications) and supporting documentation for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries.

In the situation where no certification is provided for an entry, and AD/CVD orders from two countries (China and Taiwan) potentially apply to that entry, Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the rate applicable to the *China CORE*

Orders (*i.e.*, the AD rate established for the China-wide entity (199.43 percent) and the CVD rate established for all-other Chinese producers/exporters (39.05 percent)). In the situation where a certification is provided for the AD/CVD orders on CORE from China (stating that the merchandise was not produced from HRS and/or CRS from China), but no other certification is provided, then Commerce intends to instruct CBP to suspend the entry and collect cash deposits at the AD all-others rate applicable to the AD order on CORE from Taiwan (*i.e.*, 3.66%).

Appendix III
EXPORTER CERTIFICATION

I hereby certify that:

- My name is {COMPANY OFFICIAL’S NAME} and I am an official of {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY};
- I have direct personal knowledge of the facts regarding the production and exportation of the corrosion resistant steel products identified below. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own books and records. For example, an exporter should have direct personal knowledge of the producer’s identity and location.
- The corrosion resistant steel products covered by this certification were produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY};
for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}
- The corrosion resistant steel products produced in Malaysia were not manufactured using hot-rolled steel and/or cold-rolled steel substrate from China;
- This certification applies to the following sales:

Producer	Invoice #	Invoice Line Item #

- The corrosion resistant steel products covered by this certification were sold to {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.
- The corrosion resistant steel products covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS SHIPPED}, located at {ADDRESS OF SHIPMENT}.
- I understand that {NAME OF EXPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (i.e., documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {NAME OF EXPORTING COMPANY} must provide a copy of this Exporter Certification to the U.S. importer by the time of shipment;

- I understand that {NAME OF EXPORTING COMPANY} is required to provide a copy of this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certification, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all sales to which this certification applies are within the scope of the antidumping/countervailing duty order on corrosion resistant steel products from China. I understand that such finding will result in:
 - suspension of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and
 - the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates as determined by Commerce;
 - the revocation of {NAME OF EXPORTING COMPANY}'s privilege to certify future exports of corrosion resistant steel products from Malaysia as not manufactured using hot-rolled steel and/or cold-rolled steel substrate from China.
- This certification was completed at or prior to the time of shipment; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

APPENDIX IV
IMPORTER CERTIFICATION

I hereby certify that:

- My name is {IMPORTING COMPANY OFFICIAL’S NAME} and I am an official of {NAME OF IMPORTING COMPANY}, located at {ADDRESS OF IMPORTING COMPANY}.
- I have direct personal knowledge of the facts regarding the importation into the Customs territory of the United States of the corrosion resistant steel products produced in Malaysia that entered under entry number(s), identified below, and which are covered by this certification. “Direct personal knowledge” refers to facts the certifying party is expected to have in its own records. For example, the importer should have direct personal knowledge of the importation of the product (*e.g.*, the name of the exporter) in its records;
- The corrosion resistant steel products covered by this certification were exported by {NAME OF EXPORTING COMPANY}, located at {ADDRESS OF EXPORTING COMPANY}.

If the importer is acting on behalf of the first U.S. customer, complete this paragraph:

- The corrosion resistant steel products covered by this certification were imported by {NAME OF IMPORTING COMPANY} on behalf of {NAME OF U.S. CUSTOMER}, located at {ADDRESS OF U.S. CUSTOMER}.
- The corrosion resistant steel products covered by this certification were shipped to {NAME OF PARTY TO WHOM MERCHANDISE WAS FIRST SHIPPED IN THE UNITED STATES}, located at {ADDRESS OF SHIPMENT}.
- I have personal knowledge of the facts regarding the production of the corrosion resistant steel products identified below. “Personal knowledge” includes facts obtained from another party, (*e.g.*, correspondence received by the importer (or exporter) from the producer regarding the country of manufacture of the imported products);
- The corrosion resistant steel products covered by this certification were produced by {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY};
for each additional company, repeat: {NAME OF PRODUCING COMPANY}, located at {ADDRESS OF PRODUCING COMPANY}.
- The corrosion resistant steel products covered by this certification were not manufactured using hot-rolled steel and/or cold-rolled steel substrate from China.

- This certification applies to the following entries:

Producer	Entry Summary #	Entry Summary Line Item #	Invoice #	Invoice Line Item #

- I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of this certification and sufficient documentation supporting this certification (*i.e.*, documents maintained in the normal course of business, or documents obtained by the certifying party, for example, mill certificates, production records, invoices, etc.) for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in the United States courts regarding such entries;
- I understand that {NAME OF IMPORTING COMPANY} is required to provide this certification and supporting records, upon request, to U.S. Customs and Border Protection (CBP) and/or the Department of Commerce (Commerce);
- I understand that {NAME OF IMPORTING COMPANY} is required to maintain a copy of the exporter's certification (attesting to the production and/or export of the imported merchandise identified above), and any supporting records provided by the exporter to the importer, for the later of (1) a period of five years from the date of entry or (2) a period of three years after the conclusion of any litigation in United States courts regarding such entries;
- I understand that {NAME OF IMPORTING COMPANY} is required to maintain and, upon request, provide a copy of the exporter's certification and any supporting records provided by the exporter to the importer, to CBP and/or Commerce;
- I understand that the claims made herein, and the substantiating documentation, are subject to verification by CBP and/or Commerce;
- I understand that failure to maintain the required certifications, and/or failure to substantiate the claims made herein, and/or failure to allow CBP and/or Commerce to verify the claims made herein, may result in a de facto determination that all entries to which this certification applies are within the scope of the antidumping/countervailing duty order on corrosion resistant steel products from China. I understand that such finding will result in:
 - suspension of liquidation of all unliquidated entries (and entries for which liquidation has not become final) for which these requirements were not met; and;
 - the requirement that the importer post applicable antidumping duty and/or countervailing duty cash deposits (as appropriate) equal to the rates determined by Commerce;

the revocation of {NAME OF IMPORTING COMPANY}'s privilege to certify future imports of corrosion resistant steel products from Malaysia as not manufactured using

hot-rolled steel and/or cold-rolled steel substrate from China.

- I understand that agents of the importer, such as brokers, are not permitted to make this certification;
- This certification was completed at or prior to the time of Entry; and
- I am aware that U.S. law (including, but not limited to, 18 U.S.C. §1001) imposes criminal sanctions on individuals who knowingly and willfully make materially false statements to the U.S. government.

Signature

NAME OF COMPANY OFFICIAL

TITLE

DATE

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